

ORIGINAL

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ADRIAN SCHOOLCRAFT, Plaintiff,  
-against- Index No.  
10CIV-6005 (RWS)

THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL MARINO, Tax Id. 873220, Individually and in his Official Capacity, ASSISTANT CHIEF PATROL BOROUGH BROOKLYN NORTH GERALD NELSON, Tax Id. 912370, Individually and in his Official Capacity, DEPUTY INSPECTOR STEVEN MAURIELLO, Tax Id. 895117, Individually and in his Official Capacity, CAPTAIN THEODORE LAUTERBORN, Tax Id. 897840, Individually and in his Official Capacity, LIEUTENANT JOSEPH GOFF, Tax Id. 894025, Individually and in his Official Capacity, stg. Frederick Sawyer, Shield No. 2576, Individually and in his Official Capacity, SERGEANT KURT DUNCAN, Shield No. 2483, Individually and in his Official Capacity, LIEUTENANT TIMOTHY CAUGHEY, Tax Id. 885374, Individually and in his Official Capacity, SERGEANT SHANTEL JAMES, Shield No. 3004, and P.O.'s "JOHN DOE" 1-50, Individually and in their Official Capacity (the name John Doe being fictitious, as the true names are presently unknown) (collectively referred to as "NYPD defendants"), JAMAICA HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV, Individually and in his Official Capacity, DR. LILIAN ALDANA-BERNIER, Individually and in her Official Capacity and JAMAICA HOSPITAL MEDICAL CENTER EMPLOYEES "JOHN DOE" # 1-50, Individually

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2 and in their Official Capacity (the name  
3 John Doe being fictitious, as the true  
names are presently unknown),  
4

5 Defendants.  
6

-----x

7

111 Broadway  
New York, New York  
February 11, 2014  
10:30 a.m.

8

9  
10 VIDEOTAPED DEPOSITION of DR. LILIAN  
11 ALDANA-BERNIER, one of the Defendants in  
12 the above-entitled action, held at the  
13 above time and place, taken before  
14 Margaret Scully-Ayers, a Shorthand  
15 Reporter and Notary Public of the State  
16 of New York, pursuant to the Federal  
17 Rules of Civil Procedure.

18

19 \* \* \*

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1  
2 APPEARANCES:  
3

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19 Corporation Counsel  
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24 BY: RYAN SHAFFER, ESQ.  
25 File # 2010-033074

26 (Appearances continued on next page.)

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1  
2 APPEARANCES CONTINUED  
3

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BY: BRIAN E. LEE, ESQ.

(Appearances continued on next page.)

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1

2 APPEARANCES CONTINUED

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5 Attorneys for Defendant

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10

11 BY: PAUL CALLAN, ESQ.

12 File # 090.155440

13

14 ALSO PRESENT AT VARIOUS TIMES: MAGDALENA

15

16 BAUZA

17

18 \* \* \*

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2                   **STIPULATIONS**

3                 IT IS HEREBY STIPULATED AND AGREED, by  
4 and among counsel for the respective  
5 parties hereto, that the filing, sealing  
6 and certification of the within  
7 deposition shall be and the same are  
8 hereby waived;

9                 IT IS FURTHER STIPULATED AND AGREED  
10 that all objections, except as to form of  
11 the question, shall be reserved to the  
12 time of the trial;

13                 IT IS FURTHER STIPULATED AND AGREED  
14 that the within deposition may be signed  
15 before any Notary Public with the same  
16 force and effect as if signed and sworn  
17 to before the Court.

18

19                   \*           \*           \*

20

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2                   MR. SMITH: On the record at  
3                   10:29. We are starting the deposition  
4                   of Dr. Lilian --

5                   MR. CALLAN: Aldana,  
6                   A-L-D-A-N-A, Bernier.

7                   MR. SMITH: Aldana-Bernier.

8                   The deposition is being  
9                   videotaped.

10                  We are at 111 Broadway, my  
11                  office, Nathaniel Smith, and today is  
12                  the 11th of February 2014.

13                  You can swear the Witness in.

14                  L I L I A N    A L D A N A -  
15                  B E R N I E R, the Witness herein, having  
16                  first been duly sworn by the Notary Public,  
17                  was examined and testified as follows:

18                  EXAMINATION BY MR. SUCKLE:

19                  Q.        What is your name?

20                  A.        Lilian Aldana, hyphen, Bernier;  
21                  L-I-L-I-A-N, A-L-D-A-N-A, hyphen,  
22                  B-E-R-N-I-E-R.

23                  Q.        Where do you reside?

24                  A.        71 Parker Avenue, Maplewood,  
25                  New Jersey 07042.

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1                   L. ALDANA-BERNIER

2                 Q.    Good morning, Doctor. My name  
3    is Howard Suckle. I represent Mr.  
4    Schoolcraft in this matter, and I'll be  
5    asking you some questions today.

6                 Although I'm sure your attorney  
7    has gone over some basic rules of a  
8    deposition, let me just make sure we are  
9    all are clear on them.

10               If at any time you don't  
11    understand my question for any reason  
12    whatsoever, please let me know because if  
13    you do answer we are going to assume that  
14    you understood the question. Okay?

15               A.    Okay.

16               Q.    In addition while sometimes  
17    during the course of a conversation, a  
18    shake of the head or a nod may be an  
19    appropriate answer when the answer is yes  
20    or no. Here we have a court reporter and  
21    the court reporter needs to take down  
22    everything that you say, everything I  
23    say, and anything else said in the room.

24               If the answer is appropriately  
25    yes or no, can you please use some type

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1                   L. ALDANA-BERNIER

2       of word, say yes or no, opposed to  
3       shaking your head?

4                   A. Yes.

5                   Q. Also in that vein, the reporter  
6       needs to take down everything that you  
7       and I say. Although you may anticipate  
8       what my question is going to be before I  
9       finish, please let me finish it so the  
10      reporter can take that down and then  
11      begin to answer. Okay?

12                  A. Yes.

13                  Q. Doctor, can you tell me what  
14       you presently do for a living?

15                  A. I am a medical doctor,  
16       psychiatrist specialty.

17                  Q. Where are you employed, if at  
18       all?

19                  A. I am. I'm working for Jamaica  
20       Hospital.

21                  Q. When you say you work for  
22       Jamaica Hospital, is that your employer?

23                  A. Yes.

24                  Q. How long have you been employed  
25       by Jamaica Hospital?

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1                   L. ALDANA-BERNIER

2                   A. From 1995 to the present.

3                   Q. I don't want to know the  
4 details, but you are paid a salary,  
5 correct?

6                   A. Yes.

7                   Q. By Jamaica Hospital?

8                   A. Yes.

9                   Q. In other words when you see  
10 patients, you don't bill them  
11 independently, do you?

12                  A. No, I don't.

13                  Q. Doctor, can you tell me where  
14 did you go to undergraduate school?

15                  A. I went to the Concordia  
16 College. That is for my BSN in the  
17 Philippines.

18                  Q. Are you originally from the  
19 Philippines?

20                  A. I am from the Philippines, yes.

21                  Q. That's where you were born?

22                  A. Yes.

23                  Q. What did you study at Concordia  
24 College?

25                  A. That's bachelor's of science in

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1                   L. ALDANA-BERNIER

2                   nursing.

3                   MR. SMITH: Sorry. What was  
4                   that bachelor's in?

5                   THE WITNESS: In nursing.

6                   Q. When did you complete that?

7                   A. This was in 1973.

8                   Q. After you completed your  
9                   bachelor's in nursing, what did you do  
10                  with regards to your career or education?

11                  A. When I finished in March, I  
12                  work in the emergency room voluntarily  
13                  for the Far Eastern University.

14                  Q. How long did you do that?

15                  A. From March to November when I  
16                  came to the United States in 1973.

17                  Q. When you came to the United  
18                  States, for what purpose did you come to  
19                  the United States?

20                  A. The American dream.

21                  Q. Did you continue your education  
22                  or your career at that point?

23                  A. Yes, 1976 to '97 I took my  
24                  master's in nursing, minor in education  
25                  at the New York University.

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1                   L. ALDANA-BERNIER

2                 Q. So you have a master's in  
3                 nursing?

4                 A. Yes.

5                 Q. And education?

6                 A. Yes.

7                 Q. After you completed your  
8                 master's in nursing and in education,  
9                 what did you do next with regard to your  
10                career and education?

11                A. After that I went to medical  
12                school from 1981 to 1986, University of  
13                Santiago, Dominican Republic.

14                Q. At some point you immigrated to  
15                the Dominican Republic?

16                A. Yes.

17                Q. Did you become a citizen of the  
18                Dominican Republic?

19                A. No, I was a citizen of the  
20                United States before I went there.

21                Q. Just for the record, when did  
22                you become a citizen?

23                A. That was between '78 and '79.

24                Q. While you were in medical  
25                school, did you concentrate on any

Page 13

1                   L. ALDANA-BERNIER

2                   particular area of medicine?

3                   A.       At that point in medical  
4                   school, no.

5                   Q.       Did you graduate from the  
6                   University of Santiago?

7                   A.       Yes.

8                   Q.       What was your degree?

9                   A.       MD.

10                  Q.       What did you do next after that  
11                  with regard to your career or education?

12                  A.       In 1986 I had my externship at  
13                  the Elizabeth General Hospital in  
14                  psychiatry.

15                  Q.       Where is that?

16                  A.       In New Jersey.

17                  Q.       How long did you do that?

18                  A.       For a year.

19                  Q.       After that what did you do next  
20                  with regard to your career or education?

21                  A.       From '89 to '93, I had my  
22                  residency in psychiatry at the  
23                  Metropolitan Hospital here in Manhattan.

24                  Q.       As a resident did you have to  
25                  rotate through other disciplines as well

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1                   L. ALDANA-BERNIER

2                   as psychiatry?

3                   A. Yes, we did internal medicine,  
4                   urology.

5                   Q. Any other disciplines you  
6                   rotated through?

7                   A. I choose my elective in  
8                   endocrine.

9                   Q. What is endocrine?

10                  A. Endocrine has to do with your  
11                  hormones.

12                  Q. Did you complete that  
13                  residency?

14                  A. I did in 1993.

15                  Q. After your residency what did  
16                  you do next with regard to your career or  
17                  education?

18                  A. After 1993 I had -- 1994 I work  
19                  at Kings County Hospital as an inpatient  
20                  doctor.

21                  Q. When you say "inpatient  
22                  doctor," what do you mean?

23                  A. Inpatient unit.

24                  Q. In psychiatry?

25                  A. Psychiatry inpatient unit.

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1                   L. ALDANA-BERNIER

2                   Q.     As an attending?

3                   A.     Attending.

4                   Q.     You were employed by Kings  
5     County Hospital?

6                   A.     Kings County Hospital.

7                   Q.     That's a hospital run by the  
8     City of New York?

9                   A.     Yes, Brooklyn.

10                  Q.     You were an employee of the  
11    City of New York at that time?

12                  A.     Yes.

13                  Q.     We're early on now, and it's  
14    okay, but if we keep running over each  
15    and you're not letting me finish before  
16    you answer, she is going to start hitting  
17    me.

18                  You have to let me finish  
19    before you answer. Okay?

20                  A.     Okay.

21                  Q.     How long were you an employee  
22    of the City of New York?

23                  A.     Can I count?

24                  Q.     Take your time.

25                  A.     I'm not sure. Between eight to

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1                   L. ALDANA-BERNIER

2                   nine months.

3                   Q. While you were doing your  
4                   residency at Metropolitan, is that a City  
5                   hospital?

6                   A. It's a City hospital.

7                   Q. While you were there, were you  
8                   paid any money or given any stipend?

9                   A. Paid a salary.

10                  Q. So you were an employee at that  
11                  point too of the City of New York,  
12                  correct?

13                  A. Yes.

14                  Q. How long were you an employee  
15                  of Metropolitan?

16                  A. Four years.

17                  Q. After the inpatient attending  
18                  at Kings County Hospital, what did you do  
19                  next?

20                  A. I went to Coney Island  
21                  emergency room.

22                  Q. What did you do there?

23                  A. Emergency room attending.

24                  Q. Psychiatric?

25                  A. Psychiatric emergency room.

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1                   L. ALDANA-BERNIER

2       Q.     Is Coney Island Hospital a City  
3       hospital?

4       A.     City hospital.

5       Q.     How long did you work as an  
6       attending at the Coney Island Hospital  
7       for the City of New York?

8       A.     At the time maybe three months.

9       Q.     When you went from Kings to  
10      Coney Island Hospital, was this a  
11      transfer; did you leave one job and start  
12      a new job?

13      A.     I left one job to start a new  
14      job.

15      Q.     After what year was it that you  
16      worked at Coney Island Hospital?

17      A.     That was 1995.

18      Q.     After Coney Island Hospital,  
19      what did you do next?

20      A.     I went to Jamaica Hospital.

21      Q.     So you went to Jamaica Hospital  
22      in 1995?

23      A.     '95.

24      Q.     And you have been employed  
25      there ever since?

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1                   L. ALDANA-BERNIER

2                   A.       Yes.

3                   Q.       When you first got to Jamaica  
4                   Hospital, what was your position?

5                   A.       I was working in the emergency  
6                   room as an attending psychiatrist.

7                   Q.       And has that position changed  
8                   at all, have you changed your position at  
9                   Jamaica Hospital?

10                  A.       As an attending? I'm still an  
11                  attending.

12                  Q.       You are still in the same  
13                  position as in 1995?

14                  A.       I'm an attending still in  
15                  Jamaica Hospital.

16                  Q.       Were you anything other than an  
17                  attending at Jamaica Hospital?

18                  A.       I was director of the emergency  
19                  room.

20                  Q.       When were you the director of  
21                  the emergency room?

22                  A.       I am not sure. I don't  
23                  remember when, but I was acting director  
24                  and became the director. Then I was  
25                  still an attending at Jamaica Hospital.

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1                   L. ALDANA-BERNIER

2                 Q.     How many months or years were  
3     you the acting director?

4                 A.     How many years?

5                 Q.     How long?

6                 A.     Like -- I have no recollection.

7                 Q.     Was it a year, two years, six  
8     months, ten years? Give me an idea.

9                 A.     As acting, approximately one  
10   year.

11                Q.     How about as director?

12                A.     Director, maybe ten years.

13                Q.     While you were the acting  
14   director and director, were you actually  
15   practicing medicine during that period of  
16   time?

17                A.     Yes.

18                Q.     Well, was there any difference  
19   in the job function as acting director or  
20   director?

21                A.     No. They were trying to find  
22   something so you are just the acting  
23   until they find a real director.

24                Q.     And they found you?

25                A.     Yeah, I have been there. They

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1                   L. ALDANA-BERNIER

2                   rather have somebody in there than take  
3                   somebody from outside.

4                   Q.       When was the last time you were  
5                   in the role of director of the  
6                   psychiatric emergency room at Jamaica  
7                   Hospital?

8                   A.       That was October 2013.

9                   Q.       So in October 2009, you were  
10                  the director of the psychiatric emergency  
11                  room?

12                  A.       Yes.

13                  Q.       As a director of the  
14                  psychiatric emergency room in October  
15                  2009, what were your responsibilities and  
16                  functions?

17                  A.       Director of emergency room, you  
18                  do have administrative responsibility.  
19                  You attend administrative meeting. At  
20                  the same time, you were still do  
21                  clinicals, you still have the clinical  
22                  aspect. You have to see the patients.  
23                  At the same time, you have to oversee the  
24                  residents and the other staff of the  
25                  emergency room.

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1                   L. ALDANA-BERNIER

2                 Q. As the director of the  
3             emergency room, did you have any role in  
4             creating or drafting any of the rules or  
5             regulations of Jamaica Hospital emergency  
6             room?

7                 A. Together with the other members  
8             of the team or other administrators, yes,  
9             I sit down with them and give my  
10            feedback.

11                Q. How much of your job in October  
12             2009 as director involved administrative  
13             work versus clinical work?

14                A. I do more clinical.

15                Q. You say more clinical?

16                A. More clinical, yes.

17                Q. Give me an idea how much of  
18             your day or week was spent doing  
19             administrative work versus clinical work?

20                A. I do more clinical, but I was  
21             the only psychiatrist in the emergency  
22             room until -- go ahead?

23                Q. Until when?

24                A. Until they had given me a new  
25             attending which was for only one year.

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1                   L. ALDANA-BERNIER

2                   Q. When was that?

3                   A. In 2012/2013.

4                   Q. So October 2009 you were the  
5 only attending psychiatric physician in  
6 the psychiatric emergency room?

7                   A. Yes.

8                   Q. And did you have a set schedule  
9 at the time during the day that you  
10 worked?

11                  A. I go to work from eight  
12 o'clock.

13                  Q. Until when?

14                  A. That depends, until finishing  
15 my patient. I cannot stay because  
16 sometimes you work overtime, six o'clock,  
17 seven o'clock.

18                  Q. What is the standard day?

19                  A. Eight to four.

20                  I want you to know, I don't  
21 stay until four o'clock. I stay more  
22 than that.

23                  Q. That's what I'm trying to find  
24 out.

25                  On an average day, if there is

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1           L. ALDANA-BERNIER

2       such a thing, how long do you stay at the  
3       hospital?

4       A.     Maybe ten, 12 hours.

5       Q.     When I talked about  
6       administrative responsibilities, to  
7       oversee the residents, was that part of  
8       that administrative responsibility, is  
9       that clinical, or something else?

10      A.     That's more of your teaching  
11       responsibilities.

12      Q.     How about overseeing the staff,  
13       is that in addition to your  
14       administrative responsibilities?

15      A.     Yes.

16      Q.     How much of your time was  
17       devoted to doing clinical compared to all  
18       of these other functions that you had as  
19       director?

20      A.     I spend maybe out of the ten  
21       hours, I spend eight hours clinical.

22      Q.     When you say "overseeing  
23       staff," is that the nursing staff or  
24       something else?

25      A.     Yes, nursing staff.

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1                   L. ALDANA-BERNIER

2                 Q.     In addition to having been the  
3     only psychiatric physician employed at  
4     the emergency room in October 2009, were  
5     there other physicians who had privileges  
6     in the emergency room; psychiatric I'm  
7     talking about?

8                 A.     Yes.

9                 Q.     And how did that work, what  
10   kind of association did other doctors  
11   have with the psychiatric emergency room  
12   that you are aware of?

13                A.     We divided in shifts. One you  
14   have that works from four to 12 and one  
15   that work from 12 to eight.

16                Q.     When you say "one that works,"  
17   since you were the only one employed,  
18   what was the title of the people that  
19   worked for the other two shifts?

20                A.     Also psychiatrists.

21                Q.     Were they employed by Jamaica  
22   Hospital?

23                A.     Yes.

24                Q.     And that was in October 2009?

25                A.     Yes.

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1                   L. ALDANA-BERNIER

2                 Q. Let me just clarify: I thought  
3 you said you were the only psychiatrist  
4 working in the emergency room in October  
5 2009. Are you saying these other  
6 psychiatrists were residents?

7                 A. I'm referring to the time you  
8 were asking. The time I work from eight  
9 to four, I am the only psychiatrist.

10                Q. So during your shift?

11                A. During my shift.

12                Q. In October 2009 who were the  
13 other psychiatrists employed by Jamaica  
14 Hospital that you are aware of in the  
15 emergency room?

16                MR. RADOMISLI: Objection to  
17 form.

18                A. When you saying other  
19 psychiatrists, include the residents?

20                Q. Let's not talk about residents  
21 yet. The other attendings.

22                A. Who are the other?

23                Q. Yes, who are the other  
24 physicians that man those other shifts?

25                A. I will not remember who those

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1           L. ALDANA-BERNIER

2           psychiatrist were.

3           MR. SMITH: What was the answer?

4           MR. CALLAN: She doesn't  
5           remember.

6           [The requested portion of the  
7           record was read.]

8           Q. And working at Metropolitan,  
9           Kings County Hospital, Coney Island  
10          Hospital up until your job working with  
11          Jamaica Hospital, did you ever encounter  
12          patients brought in by police officers to  
13          the emergency psychiatric unit?

14          A. Did I ever encounter?

15          Q. Yes.

16          A. In all of the hospitals that I  
17          worked?

18          Q. Yes.

19          A. Yes.

20          Q. From October 2009 back into  
21          your career, how many times did you  
22          encounter patients who had been brought  
23          to the psychiatric emergency room by  
24          police officers?

25          A. I will not remember.

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1                   L. ALDANA-BERNIER

2       Q.     Hundreds of people, thousands  
3     of people?

4       A.     Not hundreds.

5       Q.     How often in your career have  
6     you encountered patients brought to the  
7     psychiatric emergency room by police  
8     officers?

9       A.     Repeat that question.

10      Q.     Sure.

11                  In your career how many times  
12     have you encountered patients being  
13     brought to the emergency room by police  
14     officers?

15      A.     I think I answered you. I will  
16     say I cannot remember.

17      Q.     Can you give me an estimate  
18     what kind of number we are talking about:  
19     ten times, five times, a hundred times?

20      A.     Well, I will be deceiving you  
21     if I told you a number, right?

22      Q.     Can you give your best  
23     estimate?

24      A.     Maybe ten.

25      Q.     In those ten or so times,

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2         understanding it's an estimate, do you  
3         recall any of those patients being  
4         brought in in handcuffs?

5         A.        Okay. How do you want me to  
6         answer that?

7         Q.        Yes or no.

8                   Do you remember anybody, any of  
9         those ten or so people, being brought in  
10        in handcuffs?

11        A.        They were -- any time an  
12        officer bring a patient, they are in  
13        handcuffs.

14        Q.        Every single time that you  
15        encountered officers bringing patients to  
16        the hospital, they are in handcuffs in  
17        your history?

18        A.        When an officer brings a  
19        patient to the emergency room, they  
20        usually are in handcuffs.

21        Q.        And they are usually under  
22        arrest?

23        A.        Not all are under arrest.

24        Q.        When you say "they are not all  
25        under arrest," what do you mean?

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1                   L. ALDANA-BERNIER

2                 A. When they bring in a patient  
3         very agitated, combative, violent,  
4         depending on the nature of their call,  
5         I'm sure they were being brought by  
6         handcuffs.

7                 Q. And do you recall as you sit  
8         here any of names of any of those  
9         patients?

10                A. No.

11                Q. And do you recall as you sit  
12         here a gentleman named Adrian Schoolcraft  
13         from only your memory?

14                A. Hold on. You're saying from my  
15         memory?

16                Q. Yes.

17                A. Because I have been reading the  
18         chart.

19                Q. Independent of the records, do  
20         you have any memory of Adrian  
21         Schoolcraft?

22                MR. CALLAN: Objection to the  
23         form of the question.

24                You can answer.

25                A. No, I don't.

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2                 Q.     Okay. Can't describe him  
3                   physically, can you?

4                 A.     No.

5                 Q.     So am I correct that your  
6                   entire memory of any care or treatment  
7                   you may have rendered to Mr. Schoolcraft  
8                   is contained in the hospital chart of  
9                   Jamaica Hospital?

10                MR. RADOMISLI: Objection to  
11                   form.

12                MR. CALLAN: I join in the  
13                   objection.

14                You can answer.

15                A.     From it, yes.

16                Q.     So your memory of care and  
17                   treatment of Mr. Schoolcraft comes from  
18                   the notes contained in the hospital chart  
19                   of Jamaica Hospital, correct?

20                A.     Yes.

21                Q.     And prior to coming here today,  
22                   did you review any documents?

23                A.     The same, yes.

24                Q.     What did you review?

25                A.     The records [indicating].

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1                   L. ALDANA-BERNIER

2       Q.     When you say "the records,"  
3 what records?

4       A.     The hospital records.

5       Q.     Of who?

6       A.     Of Mr. Schoolcraft.

7       Q.     Did you review the entire  
8 hospital chart?

9       A.     Not the entire, just go through  
10 maybe five pages.

11      Q.     What five pages did you look  
12 at?

13      A.     Just going through  
14 [indicating].

15      Q.     What was the nature of the  
16 things you looked at?

17      A.     I want to the consult, and I  
18 went through the notes of the resident.

19      Q.     Your consult and the --

20      A.     The consult of the resident and  
21 the notes of the residents when the  
22 resident was working in the emergency  
23 room.

24      Q.     Your consult and the resident's  
25 note in your --

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1                   L. ALDANA-BERNIER

2                 A. Not my consult, a consult done  
3                 by the resident in the medical ER and the  
4                 notes of the resident when the patient  
5                 was in our psych unit.

6                 Q. The consult of the resident,  
7                 was that a psych ER consult?

8                 A. It was a psychiatric consult in  
9                 the medical ER.

10                Q. And then you looked at notes  
11                from the psych ER?

12                A. From the psych ER.

13                Q. Were any of those your notes?

14                A. The notes of the residence.

15                Q. Prior to coming here today and  
16                since October 2009, have you ever looked  
17                at any notes that you made in the chart?

18                A. No.

19                Q. So in anticipation of coming  
20                here today before you came to this room,  
21                did you look at any documents before  
22                today?

23                A. Yes, same notes.

24                Q. Same notes.

25                In that entire time from

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1                   L. ALDANA-BERNIER

2     October 2009 up until today, did you have  
3     access to the entire Jamaica Hospital  
4     chart, at least as you understood it to  
5     be?

6                   A.       No.

7                   Q.       No one showed it to you?

8                   A.       No.

9                   Q.       Did you ask to review it?

10                  A.       Before, but I was stopped.

11                  Q.       Who stopped you?

12                  A.       The hospital risk management.

13                  Q.       So you at some point decided  
14     you want to look at the chart, and risk  
15     management asked you not to do that?

16                  A.       The very, very first time, yes.  
17     I don't remember when was that but was  
18     risk management.

19                  Q.       Was that when you received some  
20     type of summons and complaint regarding  
21     this lawsuit?

22                  A.       Yes.

23                  Q.       After that you knew you were  
24     coming here to testify, correct,  
25     somewhere before today someone told you

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2       have to testify, right?

3       A.     Yes.

4       Q.     In fact this is the second time  
5       that you arrived in this room to testify,  
6       correct?

7       A.     Yes.

8       Q.     In anticipation of either of  
9       those two times, you never reviewed the  
10      chart other than the notes you --

11      A.     You're right.

12      Q.     You never reviewed any chart  
13      with your handwriting on it prior to  
14      today?

15      A.     My handwriting?

16      Q.     Yes.

17      A.     I saw it.

18      Q.     So you read your handwriting or  
19      your notes?

20      A.     Yes.

21      Q.     So now you have told me you  
22      have read the consult of a resident,  
23      psychiatric resident, in the medical ER  
24      and the notes in the psychiatric ER?

25      A.     [Indicating.]

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2                   Q.     And your notes?

3                   MR. CALLAN: Those were her  
4                   notes, Counsel. I think that's the  
5                   confusion.

6                   MR. SUCKLE: I'll clarify.

7                   Thank you.

8                   A.     Yes.

9                   Q.     As your counsel points out, the  
10                  psych ER notes included your notes?

11                  A.     Yes.

12                  Q.     Did you make any notes in the  
13                  chart that you were aware of that were  
14                  not done in the psych ER?

15                  A.     No.

16                  Q.     And did you review any other  
17                  documents in anticipation of coming here  
18                  to testify?

19                  A.     No.

20                  Q.     Did you read any transcripts of  
21                  any testimony prior to today?

22                  A.     No.

23                  Q.     Did you speak to anybody at  
24                  Jamaica Hospital regarding preparing for  
25                  testimony here today?

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2                   A.       No.

3                   Q.       Have you spoken to anybody at  
4                   Jamaica Hospital --

5                   MR. SUCKLE: Withdrawn.

6                   Q.       Have you spoken to anybody at  
7                   Jamaica Hospital about your care and  
8                   treatment of Mr. Schoolcraft?

9                   A.       No.

10                  Q.       How about anybody else's care  
11                  and treatment of Mr. Schoolcraft?

12                  A.       Who?

13                  Q.       Have you ever spoken to anybody  
14                  at Jamaica Hospital about anybody else's  
15                  care and treatment of Mr. Schoolcraft?

16                  A.       No.

17                  Q.       Have you spoken to anybody from  
18                  the New York City Police Department  
19                  regarding your care and treatment of Mr.  
20                  Schoolcraft?

21                  A.       No.

22                  Q.       And just for the record, what  
23                  is risk management? You said you spoke  
24                  to risk management. What is that?

25                  A.       They are the legal department.

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2           MR. SUCKLE: Mark this 69.

3           [The document was hereby marked  
4           as Plaintiff's Exhibit 69 for  
5           identification, as of this date.]

6           MR. CALLAN: I'll show you  
7           what's been marked as Plaintiff's  
8           Exhibit 69.

9           Counsel from Jamaica Hospital,  
10          is that the hospital chart provided to  
11          you by Jamaica Hospital for Adrian  
12          Schoolcraft?

13          MR. RADOMISLI: Yes.

14          Q. I will ask you, do you know  
15          what this is?

16          A. That's our record.

17          Q. When you say "our record," you  
18          mean Jamaica Hospital's record?

19          A. Jamaica Hospital record.

20          Q. That record is created as part  
21          of the business of Jamaica Hospital,  
22          correct?

23          A. Correct.

24          Q. It's the business of Jamaica  
25          Hospital to make that record?

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2                   A. You're right.

3                   Q. And that record is kept at  
4                   Jamaica Hospital as part of its regular  
5                   course of business, correct?

6                   A. Yes.

7                   Q. And entries in this chart were  
8                   made on or about the dates listed in  
9                   here?

10                  A. Yes.

11                  Q. Is this the record that you had  
12                  access to review prior to testifying here  
13                  today?

14                  A. Yes.

15                  Q. Or a copy of it?

16                  A. Or the copy, yes.

17                  Q. But you did have a chance to  
18                  review this original record here today  
19                  prior to testifying?

20                  A. Yes, when I came in here.

21                  Q. Can you tell me from your  
22                  review of the record before we go through  
23                  the record, generally what was your role,  
24                  if at all, was with regard to the care  
25                  and treatment of Mr. Schoolcraft?

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2                   A.       What was my role in the care?

3                   Q.       Yes.

4                   A.       My role was I as soon as I came  
5                   to the emergency room, I had the  
6                   responsibility to go and see every  
7                   patient that was left over under my care  
8                   and Mr. Schoolcraft was one of them so I  
9                   had to, like, every other patient go and  
10                  see him, speak to him, evaluate him.

11                  Q.       Evaluate him?

12                  A.       Yes.

13                  And then I have to read the  
14                  notes of the initial doctor who was the  
15                  resident that saw the patient. I have to  
16                  assess that note, and make my decision if  
17                  needed to be admitted.

18                  Q.       In your training as a nurse,  
19                  did you learn about the creation of  
20                  hospital records?

21                  A.       Did I what?

22                  Q.       Did you learn about how to make  
23                  hospital records in your training as a  
24                  nurse?

25                  A.       How to make hospital records?

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2           Q.     Yes.

3           A.     Yes.

4           Q.     Did you also learn how to make  
5     hospital records during your training as  
6     a physician?

7           A.     Yes.

8           Q.     And as a resident, did you  
9     learn about how to make hospital records?

10          A.     Yes.

11          Q.     How about Kings County, did you  
12     learn there about how to make hospital  
13     records?

14          A.     Yes.

15          Q.     And the same for Coney Island  
16     Hospital, correct?

17          A.     Yes.

18          Q.     And Jamaica Hospital as well?

19          A.     Yes.

20          Q.     In fact do you know what the  
21     purpose of creating a hospital record is?

22          A.     That's to keep a file on the  
23     patient.

24          Q.     Is that just to have a file, or  
25     is there a medical purpose for creating a

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1           L. ALDANA-BERNIER

2 hospital record?

3           A. Yes, a medical purpose for the  
4 file to ascertain that the patient was in  
5 that place when he was treated.

6           Q. Just to know whether or know he  
7 was physically in the place?

8           A. It's a medical record of the  
9 patient, complete medical record of the  
10 patient.

11          Q. When you say "complete medical  
12 record," it's supposed to show the  
13 treatment of a patient at a facility?

14          A. Treatment, treatment plan, and  
15 discharge plan.

16          Q. If there is an evaluation of  
17 the patient, the records are required to  
18 have details of that evaluation, correct?

19          A. Yes.

20          Q. If there is an examination of  
21 the patient, it's required to create  
22 notes regarding that --

23           MR. CALLAN: Objection.

24          A. Yes.

25          Q. Does good and accepted medical

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1                   L. ALDANA-BERNIER

2 practice require when a physician  
3 examines a patient they make a note of  
4 that examination?

5                   A. Yes.

6                   Q. Does good and accepted medical  
7 practice require when a physician makes  
8 an evaluation of the patient, they need  
9 to make a note of that evaluation?

10                  A. Yes.

11                  Q. And why do physicians make  
12 notes of their examinations of patients  
13 in hospital charts?

14                  A. Why do we make notes?

15                  Q. Yes.

16                  A. We have to make notes to make  
17 sure that we have seen the patient, that  
18 we have assessed what we are supposed to  
19 be doing for the patient, and to make  
20 sure there is a record that the patient  
21 was assessed and evaluated and treated;  
22 that's why we do it.

23                  Q. Isn't it also important to note  
24 in the records either your examinations  
25 or evaluation of a patient so that in the

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2         future someone else can read those  
3         evaluations and examinations and  
4         understand what took place?

5         A.        You're right.

6         Q.        You know in medicine sometimes  
7         you are not the last physician to see a  
8         patient, correct?

9         A.        That's right.

10        Q.        Especially in a hospital  
11        setting?

12        A.        That's correct.

13        Q.        Sometimes you will evaluate or  
14        see a patient and other physicians will  
15        see a patient and evaluate them, correct?

16        A.        Yes.

17        Q.        And you know that other  
18        physicians may want to review what  
19        happened in the past, correct?

20        A.        That's correct.

21        Q.        That's one of the reasons for  
22        creating a hospital record and notes in  
23        the hospital, correct?

24        A.        That's correct.

25        Q.        In fact you testified that you

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2       went back and read some previous notes  
3       that other physicians made in Mr.  
4       Schoolcraft's chart during your care and  
5       treatment of him, correct?

6                   A.     That's correct.

7                   Q.     It's important for you to have  
8       notes from other physicians so you know  
9       what their evaluations were, correct?

10                  A.     That's correct.

11                  Q.     Also to know what their  
12       examinations were?

13                  A.     That's correct.

14                  Q.     And to know what they base  
15       their examinations and evaluations on,  
16       correct?

17                  A.     That's correct.

18                  Q.     The only way to know that would  
19       be to read the chart and see what is  
20       written down, correct?

21                  MR. RADOMISLI: Objection to  
22       form.

23                  A.     That's correct.

24                  Q.     When you went and evaluated Mr.  
25       Schoolcraft, did you actually speak to

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2       the residents that had written the notes  
3       that you just described?

4       A.     I did not speak to the  
5       residents. I read his notes.

6       Q.     You relied on the records to  
7       determine what previously had taken place  
8       with Mr. Schoolcraft; is that what you're  
9       saying?

10      A.     I read his notes. I had to go  
11       see the patient.

12      Q.     Do you know whether or not any  
13       physician reviewed any of your records  
14       after you treated Mr. Schoolcraft?

15      A.     I do not know if they reviewed  
16       my records.

17      Q.     Do you know if they did?

18      A.     I'm sure they go and read the  
19       notes.

20      Q.     When you examine a patient in  
21       the psychiatric ER, is that a physical  
22       examination, psychiatric examination, or  
23       something else?

24                   MR. LEE: Objection to form.

25      A.     Psychiatric evaluation.

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2                 Q. Did you in October 2009 or  
3 November 2009 have a standard practice  
4 how you did a psychiatric examination?

5                 A. Yes, yes. Evaluate the patient  
6 and get the history of present illness  
7 and the past history and then you do a  
8 mental status exam.

9                 Q. So you do history, past  
10 history, and mental status exam?

11                A. Yes.

12                Q. And the history is gotten by  
13 asking the patient questions?

14                A. Yes.

15                Q. And any other way that you get  
16 the history?

17                A. It's just through interaction.

18                Q. With the patient?

19                A. With the patient, yes.

20                Q. So you ask a question, the  
21 patient answers, so you get the history?

22                A. Yes.

23                Q. How about the past medical  
24 history, same thing?

25                A. Yeah, it's history, present

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2       illness, past history, past medical  
3       history, and the mental status exam.

4       Q.     Everything but the mental  
5       status exam is done by asking the patient  
6       questions, getting answers, and writing  
7       it down?

8       A.     Yes.

9       Q.     Why did you write those things  
10      down?

11      A.     For records so that somebody  
12      else when the next doctor comes will be  
13      able to read the notes.

14      Q.     What is a mental status exam?

15      A.     A mental status exam is --  
16      entails different questions like testing  
17      cognitive function.

18      Q.     Conative function?

19      A.     Yes.

20                   Testing his abstraction,  
21      testing his thought process, testing the  
22      thought content whether there is a  
23      delusion, there is a hallucination, if he  
24      was suicidal or homicidal; also includes  
25      visual assessment which is looking at his

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2         appearance and also assessing his speech  
3         and assessing his insight and judgment.

4         Q.     This is how you do your mental  
5         status exam on all the psychiatric  
6         patients --

7         A.     Yes.

8         Q.     You do your own examination,  
9         correct?

10        A.     Yes.

11        Q.     Let's go to testing conative  
12        functioning, how do you do that?

13        A.     Testing orientation, checking  
14        his memory.

15        Q.     And you ask him questions?

16        A.     Yes.

17        Q.     You did a mental status  
18        examination on Mr. Schoolcraft, right?

19        A.     Yes.

20        Q.     You asked him questions about  
21        his memory, correct?

22        A.     We do that on all our patients.

23        Q.     You did that on Mr.  
24        Schoolcraft, correct?

25        A.     We do it on all of our

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2 patients. I may have done on Mr.  
3 Schoolcraft.

4 Q. Any other things that you do  
5 with regard to conative function in your  
6 mental status examination?

7 A. Usually the orientation and the  
8 memory.

9 Q. When you say "orientation,"  
10 what do you mean?

11 A. Asking what date is it today,  
12 where are you right now, if he is aware  
13 of his surrounding, where he was.

14 Q. And good and accepted medical  
15 practice requires you to perform this  
16 mental status examination of his  
17 cognitive functioning, correct?

18 A. That's correct.

19 Q. And to make a note of your  
20 findings, correct?

21 A. Correct.

22 Q. And make a note of your  
23 examination of his cognitive functioning,  
24 correct?

25 A. That's correct.

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2                   Q. You indicated obstruction  
3                   [sic], what is that?

4                   A. Trying to test the intellectual  
5                   capacity by giving problems or decision  
6                   making if you give a situation.

7                   Q. Did you perform this part of  
8                   the mental status examination on Mr.  
9                   Schoolcraft?

10                  A. We do that in all of our  
11                  patients. I may have done it  
12                  [indicating].

13                  Q. So you did it with Mr.  
14                  Schoolcraft?

15                  A. Yes.

16                  Q. He is one of your patients,  
17                  correct?

18                  A. Yeah.

19                  Q. And does good and accepted  
20                  medical practice require you perform this  
21                  obstruction [sic] test --

22                  MR. CALLAN: Objection.

23                  MR. RADOMISLI: Objection.

24                  Q. -- mental status examination?

25                  MR. CALLAN: Objection to the

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2                   form of the question.

3                   MR. SMITH: It's abstraction.

4                   You said obstruction. Let's rephrase  
5                   that.

6                   Q. Does good and accepted medical  
7                   practice require you to perform this  
8                   abstraction test?

9                   A. Yes.

10                  Q. And to make notes of your  
11                  findings during that test?

12                  A. Yes.

13                  Q. Thought process, what is that?

14                  A. Thought process.

15                  Q. You said part of the test was  
16                  thought process?

17                  A. If he was thinking linear, is  
18                  he goal directed or is he was over --  
19                  going [sic] disorganized or loose.

20                  Q. Good and accepted medical  
21                  practice requires you to perform that  
22                  examination as part of your mental status  
23                  examination?

24                  A. Yes.

25                  Q. And you make notes of your

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2 findings, correct?

3 A. Yes.

4 Q. You talked about whether or not  
5 part of the mental status examination is  
6 whether or not someone is delusional?

7 A. Yes.

8 Q. How do you that?

9 A. Delusional is false belief.

10 Q. False belief?

11 A. That's not in agreement with  
12 one's culture.

13 Q. How do you perform that test?

14 A. You usually ask them or when  
15 the patient comes and say somebody  
16 running after me, somebody is chasing me,  
17 or there is a conspiracy or plot against  
18 me; that is a delusional belief, a false  
19 belief.

20 Q. How do you perform that test?

21 A. They come and tell you.

22 Q. You ask them?

23 A. The patient tells you.

24 Q. Have a conversation?

25 A. Yes.

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2                   THE REPORTER: You have to slow  
3                   down.

4                   Q. And good and accepted medical  
5                   practice requires you to make a note of  
6                   that conversation, correct?

7                   A. Yes.

8                   Q. And to detail what the patient  
9                   says, correct?

10                  A. Yes.

11                  Q. For each of your patients,  
12                  correct?

13                  A. Yes.

14                  Q. And you did that with Mr.  
15                  Schoolcraft, correct?

16                  A. Yes.

17                  Q. Suicidal tendencies, you said  
18                  that was part of your mental status  
19                  examination --

20                  A. Yes.

21                  Q. -- what did you mean?

22                  A. We have to ask them if they  
23                  were suicidal, contemplating, if they are  
24                  -- if they have a plan.

25                  Q. And does good and accepted

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2       medical practice require you to make a  
3       note of their responses to those  
4       questions?

5                   A.     Yes.

6                   Q.     Did you ask Mr. Schoolcraft  
7       those questions?

8                   A.     Should have been asked. I'm  
9       sure asked.

10                  Q.     Should have been asked?

11                  A.     We ask for every patient.

12                  Q.     So you asked it of Mr.  
13       Schoolcraft?

14                  A.     Yes.

15                  Q.     Did you make a note of his  
16       responses?

17                  MR. CALLAN: You can look at the  
18       chart.

19                  Are you asking from her memory  
20       or --

21                  Q.     If you recall?

22                  A.     I do not recall if I did write  
23       it.

24                  Q.     But good and accepted medical  
25       practice would require you to make a note

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1                   L. ALDANA-BERNIER  
2         of his responses to your questions  
3         regarding suicidal tendencies?

4                   A. Yes.

5                   Q. How about homicidal tendencies,  
6         how do you test for that?

7                   A. When a patient comes and tell  
8         you he's has thoughts of hurting anyone,  
9         and then you will ask him if he has a  
10      plan, if he has a weapon.

11                  Q. Did you do this test on Mr.  
12      Schoolcraft?

13                  A. Yes.

14                  Q. Did Mr. Schoolcraft have a plan  
15      or a weapon?

16                  A. I will not remember.

17                  Q. Did you make any notes? Does  
18      good and accepted medical practice  
19      require you to make a note of Mr.  
20      Schoolcraft's responses to your question  
21      regarding homicidal tendencies?

22                  A. I will not remember.

23                  Q. Does good and accepted medical  
24      practice require you to make that note --

25                  A. Yes.

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2                 Q. -- regarding Mr. Schoolcraft's  
3 response regarding homicidal tendencies?

4                 A. Yes.

5                 Q. And good and accepted medical  
6 practice requires you to make a note of  
7 both suicidal or homicidal  
8 representations that the patient makes to  
9 you as a physician, correct?

10                A. Correct.

11                Q. For every patient that makes  
12 representation about a method by which  
13 they were going to perform a suicide or a  
14 homicide, you would make a note of that,  
15 correct?

16                A. Correct.

17                Q. Because good and accepted  
18 medical practice would require you to  
19 make that note, correct?

20                A. That's correct.

21                Q. If there is no such note, the  
22 patient didn't say it, correct?

23                A. That's correct.

24                Q. If the patient did not express  
25 a suicidal tendency, you would not make a

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2 note of that?

3           MR. CALLAN: Objection to form.

4           MR. SUCKLE: I will rephrase it.

5           Q. If the patient did not express  
6 how they were going to perform some type  
7 of homicidal act --

8           MR. SUCKLE: I'm withdrawing  
9 that question too.

10          Q. When a patient expresses a  
11 suicidal thought, do you write down the  
12 details of that thought in --

13          A. Yes.

14          Q. Because good and accepted  
15 medical practice requires you to do that,  
16 correct?

17          A. Yes.

18          Q. And the absence of any note  
19 regarding homicidal thought in your  
20 records means the patient did not express  
21 a homicidal thought, correct?

22          A. It will say that the patient is  
23 not homicidal or they will put a negative  
24 sign, a circle.

25          Q. I'm talking about you in your

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2 record.

3                 A. Uh-huh.

4                 Q. When a patient expresses how  
5 they intend to commit a homicidal act, do  
6 you write down the thought of the patient  
7 how they were going to commit the  
8 homicidal act?

9                 A. Yes.

10                Q. When a patient expresses how  
11 they are going to commit a suicidal act,  
12 do you write down what the patient tells  
13 you about how they were going to perform  
14 a suicidal act?

15               A. That's correct.

16               Q. If there is no note regarding  
17 how a patient is going to commit a  
18 suicidal act, that means the patient  
19 didn't express to you how they were going  
20 to commit a suicidal act, correct?

21               A. Correct.

22               Q. If there is no note regarding  
23 how a patient was planing to commit a  
24 homicidal act, that means the patient  
25 didn't express to you how they were going

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2         to commit a homicidal act, correct?

3         A.     That's correct.

4         Q.     You have to assess their  
5         speech. How do you do that?

6         A.     Characterize the volume and the  
7         pitch: Is it soft, is it normal.

8         Q.     And again, good and accepted  
9         medical practice requires you as a  
10       physician while performing this mental  
11       status examination to make a note  
12       regarding the assessment of speech,  
13       correct?

14        A.     That's correct.

15        Q.     Did you have access to Mr.  
16       Schoolcraft's entire chart when you first  
17       saw him?

18                   Did you understand the  
19         question.

20        A.     Yes.

21        Q.     Physically, this chart we now  
22       have as Exhibit 69 in some form was fully  
23       accessible to you in the psychiatric  
24       emergency room when you saw Mr.  
25       Schoolcraft, correct?

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2                   MR. CALLAN: Objection to form.

3                   MR. SMITH: Objection to form.

4                   There is a timing issue.

5                   Q.       Was Mr. Schoolcraft's medical  
6                   chart as it existed at the time that you  
7                   saw him available to you at Jamaica  
8                   Hospital's emergency room?

9                   A.       Yes.

10                  Q.       Did you have physically Mr.  
11                  Schoolcraft's chart in your presence when  
12                  you evaluated him?

13                  MR. CALLAN: She already said  
14                  yes to that, Counsel.

15                  MR. SMITH: I don't think she  
16                  did.

17                  Q.       Did you have it in your  
18                  presence when you evaluated him?

19                  A.       I saw it before I saw him.

20                  Q.       Where were the charts keep in  
21                  this psychiatric emergency room at least  
22                  as it was in November 2009?

23                  A.       It's usually in the nursing  
24                  station.

25                  Q.       Are you familiar with the

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2 policies and procedures for Jamaica  
3 Hospital with regard to the use of  
4 restraints as they existed in 2009?

5                   A. Yes.

6                   Q. What is your understanding of  
7 that?

8                   A. A restraint a usually applied  
9 on a patient who is a danger to himself  
10 or a danger to the other patients or  
11 someone is very agitated, aggressive, or  
12 violent.

13                  They usually come in soft  
14 restraint, four-point restraints usually  
15 applied for two hours, and then staff has  
16 to go monitor those restraints every 15  
17 minutes to make sure there is no  
18 impairment of circulation.

19                  Q. You described a type of  
20 restraint. I missed what you said.

21                  A. Soft restraint.

22                  Q. What is a soft restraint?

23                  A. They are not leather. They  
24 were like Velcro, like bandages, so that  
25 they wouldn't be very constricting to the

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2       hand or the wrist of the patient.

3       Q.     Are those the only type of  
4       restraints that Jamaica Hospital used in  
5       2009?

6       A.     Yes.

7       Q.     And who makes the decision  
8       regarding whether or not restraints are  
9       to be applied to a patient?

10      A.     When the doctor is not present,  
11       any nursing staff that's there can make a  
12       decision if the patient should be  
13       restrained.

14                  What they do is call the doctor  
15       and they will tell the doctor that a  
16       patient is going to be restrained, and in  
17       30 minutes that doctor has to go and  
18       check the patient.

19      Q.     When a patient was brought in  
20       in handcuffs at Jamaica Hospital in 2009,  
21       was there a procedure for assessment as  
22       to whether or not that person should be  
23       put into hospital restraints or not?

24      A.     Repeat that again.

25      Q.     Sure.

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2                 When a patient was brought into  
3         the hospital, Jamaica Hospital, in  
4         handcuffs in 2009, was there a hospital  
5         procedure for determining whether or not  
6         that patient should be put in the soft  
7         restraints that you described?

8                 A.      Depends on the case. If the  
9         patient is in handcuffs taken to our  
10        emergency room and the patient is  
11        agitated or violent and a danger to that  
12        community of the ER, then he will have to  
13        be restrained. We usually restrain those  
14        kind of patients, violent patients.

15               Q.      When a violent patient comes in  
16        in handcuffs, they were then placed into  
17        the soft restraints, correct?

18               A.      Yes.

19               Q.      Why is that?

20               A.      If they are violent, if we see  
21        them as a potential danger, then we have  
22        to restrain them.

23               Q.      Are the only appropriate  
24        restraints to be used at Jamaica Hospital  
25        in 2009 the soft restraints that you have

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2       been describing?

3                   MR. RADOMISLI: Objection to  
4       form.

5                   MR. CALLAN: I join the  
6       objection.

7                   Q. Does good and accepted medical  
8       practice require when a patient was  
9       brought in in handcuffs that the hospital  
10      replace those handcuffs with soft  
11      restraints in 2009?

12                  MR. RADOMISLI: Objection to  
13       form.

14                  A. Not all handcuffs are soft  
15       restraints. I'm trying to say if we  
16       think they were violent and a danger or  
17       if they are going to be destructive, we  
18       have to put them in restraints.

19                  Q. When you say not all handcuffed  
20       people are put in restraints, are all  
21       people that need to be restrained removed  
22       from handcuffs and put into soft  
23       restraints?

24                  A. If they were violent.

25                  Q. How soon after admission in

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2       handcuffs should the patient be put into  
3       soft restraints?

4       A.     They go through triage. If  
5       triage assess the patient and they assess  
6       that the patient needs to be on  
7       restraints because they were violent, as  
8       soon as they come into the emergency  
9       room, we have to take off the handcuffs  
10      and put them on four-point restraints.

11      Q.     Why is that?

12      A.     Because they are dangerous.  
13      That's after the assessment. If we know  
14      they are dangerous, we have to put them  
15      on restraints.

16      Q.     Am I correct once a patient is  
17      brought into Jamaica Hospital in  
18      handcuffs and they become a patient of  
19      the hospital, physicians are going to  
20      make decisions about restraints and the  
21      type of restraints to be used, correct?

22      A.     Yes.

23      Q.     Not the police officers,  
24      correct?

25      A.     No, they don't have a role.

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2                 Q.     When you say "they don't have a  
3                 role," what do you mean?

4                 A.     They don't have a role in  
5                 deciding if our patient should be  
6                 restrained or not.

7                 Q.     If a patient is handcuff and  
8                 the hospital wants the handcuffs removed,  
9                 they should be removed, correct?

10                MR. RADOMISLI: Objection to  
11                form.

12                MR. CALLAN: Objection to form.

13                A.     The handcuffs?

14                Q.     Yes.

15                A.     If we think they have to --  
16                clarify that. There are many, many -- go  
17                ahead. Can you clarify it?

18                MR. SUCKLE: We will move onto  
19                something else.

20                Q.     Did you have any role in  
21                writing any written rules or regulations  
22                with regards to restraints at Jamaica  
23                Hospital?

24                A.     Do I have a role -- I may have  
25                sit in in one of those sessions, yes.

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2                 Q. As a medical provider, your  
3 concern is for the patient's health,  
4 correct?

5                 A. Yes.

6                 Q. Did you in reviewing the chart  
7 -- how many times did you actually speak  
8 to Mr. Schoolcraft?

9                 A. I speak to him once when I came  
10 in.

11                 MR. SMITH: I'm sorry, what?

12                 THE WITNESS: When I came in.

13                 Q. When you say when you came in,  
14 when your shift started?

15                 A. Yes.

16                 Q. It's your understanding Mr.  
17 Schoolcraft was already in the hospital  
18 when your shift started?

19                 A. Yes.

20                 Q. Do you know how many other  
21 patients were under your care when you  
22 first started that shift at the  
23 psychiatric emergency room besides Mr.  
24 Schoolcraft?

25                 A. I do not know. 2009 we usually

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2       have a 13-bed capacity. It's always full  
3       so I wouldn't know how many patients were  
4       there.

5                   MR. SMITH: Did she say 30 beds?

6                   THE WITNESS: Thirteen.

7                   Q. Am I correct that the first  
8       time that you encountered Mr. Schoolcraft  
9       he was in the psychiatric emergency room,  
10      correct?

11                  A. That's correct.

12                  Q. I will show you what's been  
13       marked Plaintiff's Exhibit 69 for today's  
14       date. I will ask you, can you turn to  
15       the first entry that you made in this  
16       chart.

17                  [Witness complying.]

18                  A. [Indicating.]

19                  Q. And you pulled out a note, what  
20       is the date of that note?

21                  A. That was on November 2nd, 2009,  
22       three o'clock in the morning.

23                  Q. Do you know what your shift was  
24       that day?

25                  A. My shift was from eight to

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2                  four.

3                  Q.     And are you familiar with the  
4                 any laws or rules regarding patients  
5                 being held in psychiatric emergency rooms  
6                 or hospital against their will?

7                  MR. RADOMISLI: Objection to  
8                 form. Can I just see that?

9                  MR. CALLAN: [Handing.]

10                 A.     Clarify that.

11                 MR. SMITH: Can I see that too?

12                 MR. CALLAN: Let's get the notes  
13                 straightened out.

14                 Q.     Just as a clarification, you  
15                 said you made this note at three a.m.?

16                 A.     That's p.m.

17                 Q.     When did your shift start?

18                 A.     From eight to four.

19                 MR. SMITH: A.m. or p.m.?

20                 Q.     8 a.m. to 4 p.m.?

21                 A.     Yes.

22                 Q.     Are you familiar with any rules  
23                 in the Mental Hygiene Law for admitting  
24                 patients against their will?

25                 A.     Yes, the involuntary admission.

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2           MR. SUCKLE: Let me put a thing  
3           there so you don't lose it.

4           MR. LEE: I didn't hear anything  
5           you just said.

6           MR. CALLAN: His said he's  
7           putting a marker in the chart so she  
8           doesn't lose her place.

9           Q.       What do you know of that law?

10          A.       That is where two doctors will  
11          commit the patient, or we have the 9.39  
12          which is the emergency admission.

13          Q.       What was the first one?

14          A.       Involuntary, that would be the  
15          9.27, and emergency admission is the  
16          9.39.

17          Q.       What is 9.27, what does that  
18          mean?

19          A.       Involuntary admission.

20          Q.       That's somebody going to be  
21          involuntarily admitted for how long?

22          A.       After 48 hours, that depends if  
23          the patient is not better, they can be  
24          kept until six months.

25          Q.       So 9.39 of the Mental Hygiene

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2       Law, what is that?

3       A.     Emergency admission to the  
4       hospital which is also involuntary.

5       Q.     In order for a patient to be  
6       involuntarily admitted to a hospital, are  
7       you familiar with the procedure that must  
8       take place?

9       A.     Yes.

10      Q.     Did you learn about this in  
11       your training at Jamaica Hospital?

12      A.     At Metropolitan Hospital.

13      Q.     And you have been familiar with  
14       that since your training at Metropolitan  
15       Hospital?

16      A.     Yeah.

17      Q.     Have you ever had to use that  
18       involuntary -- that 9.39 of the Mental  
19       Hygiene Law to admit a patient?

20      A.     Yes.

21      Q.     How many times have you done  
22       that in your career?

23      A.     Many times.

24      Q.     When you say "many," give me an  
25       idea how many is many?

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2                   A. At that time I used to see  
3 ,000 patients a year, most likely 2,000  
4 patients. I'm giving you a....

5                   MR. SMITH: Can you read that  
6 back.

7                   [The requested portion of the  
8 record was read.]

9                   A. An approximation.

10                  Q. Is that 2,000 patient a year?

11                  A. Two thousand patients a year.

12                  Q. You used Section 9.39 of Mental  
13 Hygiene Law to admit patients against  
14 their will 2,000 times in the year 2009,  
15 correct?

16                  A. Most likely, yes.

17                  Q. The 2,000 per year, has that  
18 basically been about how many you have  
19 admitted per year while you work at  
20 Jamaica Hospital to date?

21                  A. Cannot recall. It's hard to  
22 say.

23                  Q. This is a regular occurrence in  
24 your practice?

25                  MR. CALLAN: Objection to the

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2                   form of the question.

3                   Q.       Do you understand my question?

4                   A.       [No response.]

5                   Q.       Do you understand my question?

6                   A.       Say it again.

7                   Q.       Sure.

8                   Admitting a patient pursuant to  
9                   9.39 of the Mental Hygiene Law is a  
10                  regular part of your practice, correct?

11                  A.       Yes, when I was in the  
12                  emergency room.

13                  Q.       And does your understanding of  
14                  9.39 of the Mental Hygiene Law, does that  
15                  apply to any admission at Jamaica  
16                  Hospital or just the psychiatric  
17                  emergency room?

18                  A.       Just the psychiatric emergency  
19                  room.

20                  Q.       So a patient can be held  
21                  against their will in the  
22                  medical emergency --

23                  MR. RADOMISLI: Objection to  
24                  form.

25                  MR. LEE: Objection to form.

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2                   MR. CALLAN: I join in the  
3                   objection.

4                   Q.       Without complying with 9.39 --

5                   MR. CALLAN: Objection.

6                   Q.       Is that your understanding?

7                   A.       I could admit them  
8                   involuntarily, yes.

9                   Q.       So a patient can be admitted  
10                  pursuant to 9.39 of the Mental Hygiene  
11                  Law in the medical emergency room,  
12                  correct?

13                  A.       In the medical emergency room?

14                  MR. CALLAN: Objection to the  
15                  form of the question.

16                  Q.       Yes.

17                  MR. CALLAN: You can answer.

18                  THE WITNESS: I can answer?

19                  MR. CALLAN: Yes.

20                  A.       If the patient is in the  
21                  medical ER and we know that the patient  
22                  needs to be transferred to the  
23                  psychiatric ER, then we have to move them  
24                  from the medical ER to the psychiatric  
25                  ER.

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2       Q.     If someone is in the medical  
3     emergency room --

4       A.     Yes.

5       Q.     -- are they free to leave?

6       A.     From the medical ER?

7       Q.     Yeah.

8       A.     But that depends, yes.

9                   If the medical doctor calls for  
10   an evaluation or assessment for a  
11   psychiatric patient, if the psychiatric  
12   doctor deems the patient -- that the  
13   patient needs to be transferred to the  
14   psychiatric ER, they were not free to  
15   leave. They have to come to the  
16   psychiatric ER.

17      Q.     So it's your understanding a  
18   patient in the medical ER can be held  
19   until transferred to the psych ER for the  
20   purposes of then being evaluated at some  
21   point in the psych ER under Section 9.39  
22   of the Mental Hygiene Law; is that your  
23   understanding?

24                   MR. LEE: Objection to form.

25                   MR. RADOMISLI: Objection.

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2                   MR. CALLAN: Same objection.

3                   A.     A psychiatrist will go to the  
4     medical ER, he will assess the patient.  
5     He already assessed and evaluated. The  
6     psychiatrist will say once medically  
7     cleared, transfer the patient to the  
8     psych ER. So then the patient will be in  
9     the psych ER.

10                  Q.     When a patient is in the  
11    medical ER --

12                  A.     Yes.

13                  Q.     -- and they want to go home,  
14    can they go home?

15                  A.     It depends. If a medical  
16    issue, yes. If medically cleared they  
17    want to go home, they go home.

18                  If a psychiatric issue and the  
19    psychiatrist will say send to the psych  
20    ER, then cannot go home. They have to  
21    come to the psych ER for further  
22    stabilization or further assessment.

23                  Q.     Under what standard or law,  
24    rule or regulation can a person be held,  
25    to your understanding, in the medical

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2     emergency room pending transfer to the  
3     psych emergency room?

4         A.     If you are referring to that,  
5     there is no 9.39 or 9.27 or 9.13.

6                   If we know that the patient  
7     needs to come to psychiatry, we have to  
8     transfer the patient to psychiatry.

9         Q.     Am I correct that the only way  
10    a hospital can hold a patient based upon  
11    a psychiatric problem is under 9.39 if  
12    that patient wants to go home?

13                  MR. LEE: Objection to form.

14                  MR. CALLAN: Objection to form.

15                  MR. RADOMISLI: Objection to  
16     form.

17         A.     Rephrase your question.

18         Q.     Sure. I will rephrase it.

19                  You say when a person is in the  
20    medical emergency room, they can be held.  
21    What does that mean?

22         A.     If let's say the medical doctor  
23    will ask for a consult, he needs a psych  
24    consult because let's say that patient is  
25    behaving bizarre or may be agitated in

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2       the ER or if they have a past history of  
3       psychiatric illness, then that doctor  
4       will call for a psychiatrist to come and  
5       see the patient.

6                   If the psychiatrist thinks that  
7       the patient needs to be transferred to  
8       the psychiatric department, then we can  
9       hold the patient and transfer that  
10      patient to the psychiatric unit.

11       Q.     Under what regulation, rule, or  
12       standard can you hold the patient that  
13       you're aware of that you just described?

14       A.     There is no 9.39, it's the  
15       decision of the psychiatrist to transfer.  
16       That's the medical ER. Usually, in the  
17       medical ER you cannot handle the patient  
18       that has all of these symptoms that I was  
19       talking about: bizarre behavior,  
20       violent, unpredictable, delusional.

21                   They can't handle those types  
22       of patients. They tend to transfer that  
23       patient to the psychiatric unit for  
24       further stabilization of the psychiatric  
25       problem.

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2                 Q. I'm going to ask my question  
3 again. Maybe I'm not being clear.

4                 Under what rules, standard, or  
5 law can a patient be held in a medical  
6 emergency room pending transfer to the  
7 psychiatric emergency room for evaluation  
8 of the Mental Hygiene Law 9.39, if you  
9 are aware of any?

10               A. I'm not aware of any.

11               Q. Am I correct that Section 9.39  
12 of the Mental Hygiene Law as you  
13 understand it must be complied with in  
14 order to hold a patient for psychiatric  
15 reasons against their will?

16               MR. LEE: Objection to form.

17               A. That is for when you admit the  
18 patient?

19               Q. Yes.

20               A. 9.39.

21               Q. That's your understanding?

22               A. Yes, that's against the rule,  
23 yes.

24               Q. What is required by Section  
25 9.39 of the Mental Hygiene Law as you

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2     understand it in order to admit a patient  
3     against their will under that section?

4         A.     If we know that the patient  
5     need admission because they are a danger  
6     to themselves or a danger to society; if  
7     they are psychotic and not able to take  
8     care of themselves; if they were  
9     depressed; if they were suicidal, then we  
10    make that decision that the patient needs  
11    to be admitted even if it's against their  
12    will.

13       Q.     This assessment that you just  
14    said has to be made, is that the kind of  
15    assessment we talked about earlier: the  
16    mental status examination?

17       A.     Yes. Yes.

18       Q.     And when a person is depressed,  
19    when you say they could be held, what do  
20    you mean?

21       A.     They could be held?

22       Q.     Yeah, because they are  
23    depressed?

24       A.     When they were depressed and  
25    not able to take care of themselves, then

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2       that would be considered also a danger to  
3       themselves because they were depressed.  
4       They are not functioning, not eating.  
5       They could be suicidal. They were not  
6       maybe functioning, to bare minimum. They  
7       are not sleeping, not eating. This is  
8       also considered a danger to themselves so  
9       they have to be admitted.

10      Q.     Are there certain procedures  
11     that must be followed in order to comply  
12     with 9.39 as you understand it?

13      A.     Patient not able to take care  
14     of themselves then we are supposed to  
15     admit these patients.

16      Q.     As a physician are there  
17     certain things that you are supposed to  
18     do in order to comply with Section 9.39  
19     of the Mental Hygiene Law as you  
20     understand it?

21      A.     Yes, I have to admit this  
22     patient. They are depressed.

23      Q.     That's all you have to do is  
24     admit them?

25      A.     I have to admit them, observe

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2                   them, stabilize them, medicate them.

3                   Q. Anything else that you have to  
4                   do?

5                   A. Anything else. I have to  
6                   stabilize, medicate. I have to admit. I  
7                   have to obtain information from previous  
8                   records.

9                   Q. What kind of previous records,  
10                  you mean the hospital records?

11                  A. Yes. If they have a  
12                  psychiatrist, I have to call them.

13                  Q. If they have a psychiatrist,  
14                  you have to call them?

15                  A. If they have a psychiatrist,  
16                  yes.

17                  Q. What about any other doctor, do  
18                  you have to call those doctors?

19                  A. Only the psychiatrist.

20                   If they say they want us to  
21                  call their medical doctor, yes, we call  
22                  their medical doctor.

23                  Q. Did you have to fill out any  
24                  form?

25                  A. Yes, release of information,

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2       yes.

3       Q.     In order to comply with Section  
4     9.39 of the Mental Hygiene Law, you have  
5     to fill out a release of information  
6     form?

7       A.     I have to go back. I'm sorry.

8                   In the emergency room, we do  
9     not get release of information, only in  
10    the inpatient unit.

11      Q.     Did you ever fill out any form  
12    in order to comply with Section 9.39 of  
13    the Mental Hygiene Law, as you understand  
14    it?

15      A.     Just those forms, the 9.39  
16    form.

17      Q.     What are those forms for?

18      A.     Those are legal forms.

19      Q.     What is the purpose of those  
20    legal forms, do you know, as you  
21    understand it?

22      A.     The purpose of those legal  
23    forms is just for the reason that you  
24    think: if the patient is a danger to  
25    himself and that he needs to be

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2 stabilized in a hospital.

3 Q. It's for your own benefit?

4 A. No.

5 MR. CALLAN: Objection to form.

6 You're recharacterizing her answers.

7 MR. SUCKLE: I'm asking.

8 A. It's not for my benefit.

9 Q. Whose benefit is it for?

10 A. For the benefit of the whole  
11 society as well as the patient and whole  
12 society.

13 Q. Is it important to be accurate  
14 in your recordkeeping in a hospital  
15 chart?

16 A. Repeat the question.

17 Q. Is it important to be accurate  
18 in your recordkeeping and note keeping in  
19 a hospital chart?

20 A. Yes.

21 Q. As a physician?

22 A. Yes.

23 Q. Why?

24 A. It's for the sake of patient.

25 MR. SUCKLE: Do you need to take

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2           a break?

3           THE REPORTER: No.

4           MR. SMITH: Let's take a break.

5           We are going off the record at  
6           11:51.

7           [Discussion held off the  
8           record.]

9           [Whereupon, at 11:51 a.m., a  
10          recess was taken.]

11          [Whereupon, at 12:13 p.m., the  
12          testimony continued.]

13          MR. SMITH: Back on the record  
14          12:13.

15          Q. Doctor, you had indicated to us  
16          your first note in the chart was November  
17          2nd, 2009, at 3:10 p.m.

18          And do you know whether or not  
19          the patient had been evaluated from a  
20          psychiatric prospective at any time prior  
21          to your note?

22          A. You're asking me if --

23          Q. I'm asking do you know whether  
24          or not the patient had to be evaluated  
25          from a psychiatric prospective at any

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2         time prior to November 2, 2009, at any  
3         time before you made your note?

4         A.       Yes.

5         Q.       Did you review the chart of Mr.  
6         Schoolcraft prior to seeing him on  
7         November 2nd, 2009, at 3:10 p.m.?

8         A.       Yes.

9         Q.       Why did you do that?

10        A.       To be able to know the patient  
11        and see what's going on and get  
12        information about the patient.

13        Q.       And when for the first time did  
14        anybody do any kind of psychiatric  
15        examination or assessment of Mr.  
16        Schoolcraft in Jamaica Hospital that  
17        you're aware of?

18        A.       That is when he was in the  
19        medical ER.

20        Q.       And did you see a note of that  
21        evaluation?

22        A.       Yes, it's here [indicating].

23        Q.       What is the date and time of  
24        that note?

25        A.       It's 11/1/2009 at 6:30 in the

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2 morning.

3                   MR. LEE: At what time?

4                   THE REPORTER: 6:30 in the  
5 morning.

6                   MR. SUCKLE: Just give me a  
7 second.

8                   MR. SMITH: Did you see 11/1?

9                   THE WITNESS: Yes, 11/1/2009 at  
10 6:30 in the morning.

11 Q. And this is a note by who?

12 A. Dr. Lewin.

13 Q. Spell that?

14 A. L-E-W-I-N.

15 Q. It says 1 of 3 on top, correct?

16 A. Yes.

17 Q. It's a three-page note,  
18 correct?

19 A. Yes.

20 Q. And it ends and the three pages  
21 end with a note on 11/1/09 at 6:30 a.m.,  
22 correct?

23 A. Yes.

24 Q. This is called a "Consultation  
25 Form." What is that?

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2         A.   When the doctor calls for a  
3 consult, this is the form that we use to  
4 write our notes.

5         Q.   What was the purpose of having  
6 Mr. Schoolcraft evaluated, if you recall,  
7 from your review of the chart?

8         A.   Okay. It said in here that a  
9 psych consult was called and reported as  
10 patient was acting bizarre.

11        Q.   Did you read this note prior to  
12 your evaluation of the patient?

13        A.   Yes.

14        Q.   Is this one of notes that you  
15 read prior to coming here to testify in  
16 preparation for your testimony today?

17        A.   Yes.

18        Q.   And were you able to read the  
19 note, the handwriting, when you read  
20 it --

21        A.   Yes.

22        Q.   -- back in 2009?

23        A.   Yes.

24        Q.   Have you seen Dr. Lewin's  
25 handwriting before?

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2                   A. Yes.

3                   Q. And you had become familiar  
4 with it?

5                   A. Yes.

6                   Q. And if you go to the second  
7 page of that note, did you see from that  
8 note there had been no prior psychiatric  
9 history?

10                  A. It says in here, "Denied past  
11 psych hospitalization or treatment."

12                  Q. Or suicidal attempt?

13                  A. Yes.

14                  Q. And after this note was  
15 written, was Mr. Schoolcraft free to go  
16 home?

17                  A. After this note was written,  
18 she had recommendations.

19                  Q. I know. But my question was:  
20 Was Mr. Schoolcraft free to go home after  
21 that note was written?

22                  A. No.

23                  Q. When you say "no," why not?

24                  A. Because then that was her  
25 recommendation he needed one-to-one

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2                   observation for unpredictable behavior  
3                   and escape risk.

4                   Q.       What was he escaping from, what  
5                   was the escape risk from?

6                   A.       He might run out of the  
7                   emergency room because it's unlocked  
8                   door.

9                   Q.       He needed to be held because he  
10                  was an escape risk?

11                  A.       He needed to be observed more.

12                  Q.       He needed to be observed more?

13                  A.       One-to-one, yes.

14                  Q.       Did you also read in the note  
15                  on the second page, the last line on the  
16                  second page where the note reads, "He  
17                  denies suicidal ideations." Do you see  
18                  that?

19                  A.       Yes.

20                  Q.       And "He denies homicidal  
21                  ideations."

22                  A.       Yes.

23                  Q.       Do you have any reason when you  
24                  read that note to believe that wasn't  
25                  true?

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2                   MR. LEE: Objection to form.

3                   A.     But you are missing the point  
4     in there when he is paranoid about his  
5     supervisors.

6                   Q.     I asked you whether you had any  
7     reason to believe he was not suicidal and  
8     not homicidal?

9                   A.     I think I need to know further  
10    if he was suicidal or homicidal. At that  
11    point in time, I need to assess suicidal  
12    or homicidal.

13                  Q.     You didn't have enough  
14    information by just reading suicidal or  
15    homicidal, correct, you needed more  
16    information, correct?

17                  A.     Yes, it's saying here he was  
18    paranoid about his supervisors.

19                  MR. CALLAN: Objection to form.

20                  Q.     So he was being held because he  
21    was paranoid?

22                  A.     Not only that. He became  
23    agitated, uncooperative, verbally abusive  
24    while he was in the medical ER so we have  
25    to find out why there is agitation, why

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2     is was behaving bizarre.

3     Q.     Just so I understand. He is  
4     been held because he is agitated?

5     A.     Yes.

6                   MR. CALLAN: Wait for the  
7     question.

8     Q.     He was being held because you  
9     want to know more about him, correct?

10                  MR. CALLAN: Objection to form  
11     of the question.

12                  Q.     Is that correct?

13                  MR. CALLAN: That question  
14     doesn't make any sense. You are  
15     talking about --

16                  MR. SUCKLE: You have your  
17     objection.

18                  Q.     Is that your understanding of  
19     the note?

20                  A.     There was more to that. The  
21     patient was behaving bizarre.

22                  Q.     What action was he taking that  
23     was bizarre?

24                  A.     According to the note, when  
25     they went to his house, the patient

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2                   barricaded himself and he will not open  
3                   the door so they had to break into his  
4                   apartment.

5                   Q.     Is it your understanding under  
6                   9.39 of the Mental Hygiene Law, someone  
7                   can be held because they are acting  
8                   bizarre?

9                   MR. CALLAN: Objection to form.

10                  MR. LEE: Objection to form.

11                  Q.     Is that your understanding?

12                  A.     That's my -- he can be bizarre  
13                  and he can be psychotic.

14                  Q.     The question was: Is it your  
15                  understanding of 9.39 of the Mental  
16                  Hygiene Law that a patient could be held  
17                  because they're acting bizarre?

18                  MR. LEE: Objection to form.

19                  A.     He can be a danger to himself.

20                  Q.     You have to answer my question.

21                  Can a patient be held under  
22                  Section 9.39 of the Mental Hygiene Law  
23                  because they are acting bizarre?

24                  A.     Yes.

25                  Q.     Can they be held under Mental

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2       Hygiene Law 9.39, as you understand it,  
3       because they are agitated?

4       A.       Yes.

5       Q.       That's your understanding of  
6       the law?

7                   MR. CALLAN: Objection to the  
8       form of the question.

9       Q.       Correct?

10      A.       [No response.]

11      Q.       Am I correct that's your  
12     understanding?

13      A.       My understanding, yes.

14      Q.       So a good and accepted medical  
15     practice as you understand it allowed to  
16     make a hospital to hold Mr. Schoolcraft  
17     on November 1, 2009, 'cause he was acting  
18     bizarre, correct?

19                   MR. CALLAN: Objection to form.

20                   MR. LEE: Objection to the form.

21      Q.       Correct?

22      A.       It's not only the behaving  
23     bizarre. It's the whole picture that was  
24     going on at the time. From the --

25      Q.       Did you see anything in this

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2       note that Mr. Schoolcraft was exhibiting  
3       a threat to another person?

4       A.      Not a threat to another person.

5       Q.      Did you see anywhere in here  
6       that he was suicidal?

7       A.      He is not suicidal.

8       Q.      Did you see anywhere in here  
9       that he was going to harm himself in any  
10      way?

11      A.      That I have to question if he  
12      was going to hurt himself or if he was a  
13      danger to himself because if I have  
14      somebody in the emergency room, you have  
15      a report that he was behaving bizarre or  
16      he was agitated, and if I look at the  
17      whole picture from the time that he was  
18      taken away from his home where he was --  
19      he barricaded himself, then I have to  
20      consider him to be held against his will.

21      Q.      Did you see anything in this  
22      record that Mr. Schoolcraft indicated to  
23      the consulting physician that he was  
24      going to harm himself?

25      A.      He said in here that he denied

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2       that he was going to hurt himself. There  
3       is nothing that he was going to hurt  
4       himself.

5       Q.     Or hurt anybody else, correct?

6       A.     Nope.

7       Q.     Do you know the physician, the  
8       psychiatric resident, that signed that  
9       note?

10      A.     That is Dr. Lewin. The  
11     resident was Dr. Lewin, and the attending  
12     Dr. Patel.

13      Q.     On the last page of that note,  
14     it's a three-page note, is there a stamp  
15     there for the resident?

16      A.     Yes.

17      Q.     So Dr. Lewin was a resident?

18      A.     Yes.

19      Q.     And did Dr. Lewin provide any  
20     notice to Mr. Schoolcraft under 9.39 of  
21     the Mental Hygiene Law?

22           MR. RADOMISLI: Objection.

23      A.     I would not remember that.

24      Q.     Did Dr. Lewin, from your review  
25     of the records, produce any forms, signed

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2       any form, under 9.39 of the Mental  
3       Hygiene Law in order to admit Mr.  
4       Schoolcraft against his will?

5                   MR. RADOMISLI: Objection.

6       Q.       Did you see any form?

7                   MR. RADOMISLI: Objection.

8                   MR. CALLAN: Objection.

9       Q.       Did he fill out any such form?

10                  MR. CALLAN: She is supposed to  
11       get into his mind and know what he  
12       did?

13                  MR. SUCKLE: Forms, forms, did  
14       you see any forms.

15                  MR. CALLAN: Did you see any  
16       forms, that's fine.

17                  Go right ahead.

18       A.       No.

19       Q.       Is there anything in the file  
20       that suggests that Dr. Lewin actually  
21       filled out any form with regard to 9.39  
22       of the Mental Hygiene Law?

23                  MR. RADOMISLI: Objection.

24       Q.       Anything to suggest that?

25                  MR. RADOMISLI: Objection.

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2                   Q.     From your prospective?

3                   MR. RADOMISLI: Objection.

4                   MR. SUCKLE: I heard it.

5                   MR. RADOMISLI: I strenuously  
6                   object.

7                   MR. SUCKLE: I heard your  
8                   strenuous objection.

9                   MR. CALLAN: Do you want her to  
10                  look through the entire record?

11                  A.     There are no forms.

12                  Q.     Did Dr. Lewin, do you see  
13                  anything to suggest that Dr. Lewin then  
14                  ensured within 48 hours that another  
15                  physician evaluated Mr. Schoolcraft?

16                  MR. RADOMISLI: Objection.

17                  MR. CALLAN: Objection.

18                  Q.     Does it say anything in there?

19                  A.     She indicated in here he needs  
20                  to be transferred to the psych ER.

21                  Q.     And after Dr. Lewin, there is  
22                  another signature. Do you know who that  
23                  is? Did I ask you that already?

24                  In the note of November 1, that  
25                  Dr. Lewin wrote, underneath his signature

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2       is another signature. Do you know whose  
3       signature that is?

4       A.      That is Dr. Patel.

5       Q.      Did Dr. Patel fill out any form  
6       that you are aware of in order to comply  
7       with 9.39 of the Mental Hygiene Law?

8                   MR. LEE: Objection to form.

9                   MR. RADOMISLI: Objection.

10                  MR. CALLAN: Same objection.

11                  Q.      No?

12                  A.      There is no form in here.

13                  Q.      There is no form in the record,  
14                  correct?

15                  A.      None.

16                  Q.      Did you read Dr. Patel's note  
17                  at the end there where he signed?

18                  A.      I concur with above doctor's  
19                  treatment recommendations."

20                  Q.      What is psychotic disorder,  
21                  what is that?

22                  A.      Psychotic disorder is one of  
23                  the categories of diagnosis wherein  
24                  patient is not in touch with reality.

25                  He can have the following

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2       symptoms, like, agitation, aggressive  
3       behavior, delusions, hallucinations,  
4       impairment in reality testing.

5       Q.     That's a pretty broad category,  
6       correct?

7       A.     Yes.

8       Q.     What does Axis I stand for?

9       A.     Those are our DSM categories  
10      when we are diagnosing patients.

11                  Axis I is for psychotic  
12      disorders or mental health disorders.  
13      Axis II would be our personality  
14      disorder.   Axis III is the medical  
15      disorder.   Axis IV is the social  
16      stressor.   And Axis V is the global  
17      functioning.

18       Q.     So when you read that note, you  
19      learned that there was some social  
20      stressors; being, a conflict at the  
21      worksit for Mr. Schoolcraft, correct?

22       A.     That's correct.

23       Q.     Do you know what the nature of  
24      a that conflict was?

25       A.     Something -- a conflict between